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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Janko Budzisch

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP

1279 OAKMEAD PARKWAY

SUNNYVALE, CA 94085-4040

EXAMINER

HAMZA, FARUK

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/749,854	Applicant(s) BUDZISCH ET AL.	
	Examiner FARUK HAMZA	Art Unit 2455	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 31-57 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 31-57 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>02/09/09</u> . | 6) <input type="checkbox"/> Other: _____ |

Response to Amendment

1. This action is responsive to the communication filed on February 09, 2009. Claims 1-30 have been canceled. Claims 31-57 have been newly added. Claims 31-57 are pending.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 31-33, 40-42 and 49-51 are rejected under 35 U.S.C. 102(e) as being anticipated by the U.S Patent Application Publication No. 2004/0139194 A1 by Naganathan, hereinafter Naganathan.

Regarding claim 1, Naganathan teaches a method, comprising: reading program code from memory and processing said program code with one or more processors to perform the following: executing a testing scenario, said executing of said testing scenario including repeatedly receiving request messages at a testing application running on a server or servlet engine ([0012], [0039] [0044] - users are regularly contacting the service), said testing application being a software program that tests availability of other software programs and/or

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components, at least on of said software components including a login procedure for its availability test ([0039] [0044]), said request messages identifying a set of software components being: a) servable and/or invokable by said server or servlet engine ([0044] - modules are use loadable); b) associated with said testing scenario ([0044] - web service testing scenario or calendar service testing scenario); and, c) used by a same business logic process within an information system infrastructure ([0044] - web service testing scenario or calendar service testing scenario); and, at least one of said request messages providing a respective user identification for the at least one software component including a login procedure for its availability test; and , said executing of said testing scenario comprising, in response to each of said request messages: said testing application testing said set of software components for availability and preparing and sending onto said network a response message to report, to the entity, availability or unavailability of said set of software components, said entity having sent said response message's corresponding request message.

Regarding claim 32, Naganathan teaches the method of claim 1 wherein at least one of said software components further comprises a web page and said testing for availability of said web page further comprises attempting to fetch said web page ([0044] and [0052]- web service. [0045] - support for HTTP protocol).

Regarding claim 33, Naganathan teaches the method of claim 2 wherein said web page's URL is identified in each of said request messages ([0045] - support for HTTP protocol).

Claims 40-42 are rejected in view of the above rejection of claims 31-33.

Claims 40-42 are essentially the same as claims 31-33, except that they set forth the invention as a system rather than a method, as do claims 31-33.

Claims 49-51 are rejected in view of the above rejection of claims 31-33.

Claims 49-51 are essentially the same as claims 31-33, except that they set forth the invention as a computer program product rather than a method, as do claims 31-33.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 34-39, 43-48 and 52-57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Naganathan in view of the U.S. Patent No. 6,842,891, issued to Zhang, hereinafter Zhang.

Regarding claim 34, Naganathan teaches the method of claim 31.

Naganathan does not explicitly teach that the method is further comprising creating a request object from the content of said request message with a request message class.

However, Zhang, in analogous art, directed to distributed test framework, teaches a method further comprising creating a request object from the content of said request message with a request message class (Abstract, 2:53-61 -

dynamic attribute classes. 4:18-31 - implementation of the invention on Java platform. Java is an object oriented language. See also 4:32-38).

Therefore, it would have been obvious to one of ordinary skills in the art at the time the invention was made to combine the teachings of Zhang regarding implementation of the invention in Java with the teachings of Naganathan in order to enhance cross-platform compatibility of Naganathan's invention. Naganathan, combined with the cited teachings of Zhang, is hereinafter referred to as NZ1.

Regarding claim 35, NZ1 teaches the method of claim 34 further comprising creating a scenario object from said request object with a scenario object class (Zhang, 4:18-31 - implementation of the invention on Java platform. Java is an object oriented language. See also 4:32-38).

Regarding claim 36, NZ1 teaches the method of claim 35 further comprising creating a response message object with a response message class (Zhang, 4:18-31 - implementation of the invention on Java platform. Java is an object oriented language. See also 4:32-38).

Regarding claim 39, NZ1 teaches the method of claim 1 wherein said testing of each of said one or more software components is performed by a servlet (Zhang, 5:28-37).

Regarding claim 37, Naganathan teaches the method of claim 31. Naganathan does not explicitly teach such method wherein said response message is an XML document.

However, Zhang, in analogous art, directed to distributed test framework, teaches a method wherein said response message is an XML document (7:50-59 - an Extensible Markup Language (XML) formatted messages).

Therefore, it would have been obvious to one of ordinary skills in the art at the time the invention was made to combine the teachings of Zhang regarding implementation of Extensible Markup Language (XML) formatted messages with the teachings of Naganathan in order to make the message format completely compatible with Java and completely portable. Naganathan, combined with the XML teachings of Zhang, is hereinafter referred to as NZ2.

Regarding claim 38, NZ2 teaches the method of claim 37 wherein each of said request messages is an XML document (7:50-59 - an Extensible Markup Language (XML) formatted messages).

Claims 43-48 are rejected in view of the above rejection of claims 34-39. Claims 43-48 are essentially the same as claims 34-39, except that they set forth the invention as a system rather than a method, as do claims 43-48.

Claims 52-57 are rejected in view of the above rejection of claims 34-39. Claims 52-57 are essentially the same as claims 34-39, except that they set forth the invention as a computer program product rather than a method, as do claims 34-39.

Response to Arguments

4. Applicant's arguments have been fully considered but they are not persuasive.

In the remarks applicant argues in substance that; A) Naganathan does not teach that repeatedly receiving request messages from an entity over a network at a testing application.

In response to A) The applicant is reminded that claim limitation must be given their reasonable broadest interpretation. Naganathan teaches a system availability measurement and monitoring (SMMM) system 240 (fig. 3). The SMMM comprises plurality of modules. Each module is monitoring one service. These modules are software program or application residing in SMMM. Users monitor availability of the services by regularly sending dummy transactions to the modules (see P[0013], P[0039], P[0044]). The examiner is broadly interpreting the modules to be the “testing application”. Therefore, teaching of Naganathan's meets the scope of the limitation as claimed.

B) Naganathan does not teach request messages identifying a set of software components.

In response to B) The applicant is reminded again that claim limitation must be given their reasonable broadest interpretation. Naganathan teaches a system availability measurement and monitoring (SMMM) system 240 (fig. 3) comprises plurality of modules. These modules are software components. Each module is monitoring a specific service (see P[0016], P[0039], P[0044]). When user sends request or dummy transaction to find availability of a service, the user must identify that particular module in the request which is monitoring that

service. Therefore, teaching of Naganathan's meets the scope of the limitation as claimed.

C) Naganathan does not teach request message that includes user identification for the login procedure.

In response to C) Naganathan teaches server 221 (fig. 2) enforces security models, authenticating users and handling all user session management (see P[0034]). Naganathan also teaches storing username and password in table to authenticate the users (see P [0050, 0051]). It is well known in the art that username and password are used to authenticate user. When the user sends request to find availability of services username must be provided for to access the system. Therefore, teaching of Naganathan meets the scope of the limitation as claimed.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Faruk Hamza whose telephone number is 571-272-7969. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached at 571-272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 886-217-9197 (toll –free).

Faruk Hamza

Patent Examiner

Group Art Unite 2455

/saleh najjar/

Supervisory Patent Examiner, Art Unit 2455